

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FURNISS HARKNESS,

Plaintiff,

v.

Case No. 10-02868

UNITED STATES OF AMERICA,

Defendant.

ORDER GRANTING “SECOND MOTION TO DISMISS AS MOOT”

On May 25, 2012, Defendant submitted an unopposed motion requesting that the court dismiss this action. In the motion, and in a joint notice filed on May 11, 2012, the parties indicate that the Secretary of the Navy has approved a special selection board for Plaintiff to “be convened as expeditiously as possible.” (Action Memo, Dkt. # 62-1.) As this is the relief sought by Plaintiff in his only remaining claim, the parties submit that the Secretary’s action moots Plaintiff’s case. The court agrees. Because the issues presented by this action are “no longer ‘live’ [and] the parties lack a legally cognizable interest in the outcome,” *Powell v. McCormack*, 395 U.S. 486, 496 (1969), the court lacks the authority to render a decision in this matter, *Cleveland Branch, NAACP v. City of Parma, Ohio*, 263 F.3d 513, 530 (6th Cir. 2001) (citing *Church of Scientology v. United States*, 506 U.S. 9, 12 (1992)). Accordingly,

IT IS ORDERED that the "Second Motion to Dismiss as Moot" [Dkt. # 63] is GRANTED. This matter is hereby DISMISSED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 8, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 8, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522